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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TOM GRASON and SCOTT DOWNES

Appeal 2009-006571
Application 09/985,867
Technology Center 2400

Decided: June 18, 2010

Before JAMES D. THOMAS, MAHSHID D. SAADAT, and CARL W.
WHITEHEAD JR., *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1, 2, 5-12, 15-18, 22-31, 34-37, and 40-44. Appellants have cancelled claims 3, 4, 13, 14, 19-21, 32, 33, 38, 39, 45, and 46. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Invention

News stories are rendered to readers across non-homogenous computer networks. RSS files are used to provide references to rendering files that define how a news story is to be rendered. The actual data of the news story is identified from information in the RSS file. The RSS file is not changed. An application renders a news story by locating an RSS file containing data related to the news story. Using this data, the application locates a data file containing the actual news story data. Because an application accesses the actual news story data file, the payload problem associated with RSS is overcome without changing the structure of RSS files.
(Spec. 36; Fig. 1).

Representative Claim

1. A system for distributing one or more news stories to a reader, comprising:
 - a computer accessible to the reader, the computer having a display device viewable by the reader;
 - a web browser executing on the computer, the web browser having a graphical user interface;
 - a list of titles corresponding to the one or more news stories, the list appearing as a portion of a web page in the graphical user interface;
 - a selection device used by the reader to select one of the news stories to view;

a news story rendering application executing on the computer that uses an RSS file to render a separate news story data file from a subscriber web site which displays a link to a reader selected one of the news stories and without the reader being transferred to a news vendor web site, wherein the news story data file contains a reader selected one of the news stories and resides on the subscriber web site, wherein the RSS file contains a directory listing which identifies a name of a rendering file used by the news story rendering application to locate the selected news story, wherein the name of the rendering file is the same as a name of the news story data file, wherein the rendering file instructs the web browser how to display data in the graphical user interface, and wherein the news story data file is rendered so that it is viewable in the graphical user interface in accordance with the instructions in the news story rendering file and the data in the news story data file.

Prior Art and the Examiner's Rejections

The Examiner relies on the following references as evidence of unpatentability:

Anuff	US 6,327,628 B1	Dec. 04, 2001 (filed on May 19, 2000)
Parks	US 6,596,031 B1	Jul. 22, 2003 (filed on Mar. 13, 2000)

Posting of Dave Winer to ScriptingNews 2.0b1,
[http://my.userland.com/stories/storyReader\\$11](http://my.userland.com/stories/storyReader$11) (June 15, 1999,
8:31:22 PM) (hereinafter "Dave")

All claims on appeal stand rejected under 35 U.S.C. § 103. As evidence of obviousness as to claims 1, 2, 5-11, 15-18, 22-31, 34-37, and 40-44, the Examiner relies upon Parks in view of Dave. To this combination of references, the Examiner adds Anuff as to claim 12.

Claim Groupings

Appellants' principal Brief presents arguments to independent claims 1, 8, 15, 22, 29, 35, and 42 collectively. Therefore, we chose independent claim 1 as representative. No arguments are presented to any dependent claims on appeal, including the separately stated rejection of dependent claim 12 further relying upon Anuff.

ISSUES

Did the Examiner err in finding that the combination of Parks and Dave teach the argued features of representative independent claim 1 on appeal?

ANALYSIS

We refer to, rely on, and adopt the Examiner's finding and conclusions set forth in the Answer with respect to the teachings and combinability of Parks and Dave. Our discussions will be limited to the following points of emphasis.

Initially, we make general reference to Appellants' discussion of the prior art in Specification paragraphs [0006]-[0010]. There, Appellants recognize that the prior art already teaches vendor websites, subscriber websites, the Rich Site Summary (RSS) format type of Extensible Markup Language (XML), the use of user selectable links from one website (a subscriber's website) to another website (a vendor website), as well as the rendering on a user/reader's local computer of website data that is retrieved by means of a local browser in it.

This prior art assessment makes the point that a reader/user is transferred to a vendor's website when a reader selects a link within a conventional subscriber's website.

On the other hand, Appellants' invention is reflected here:

The present invention solves the payload problem by using RSS files in a new way. According to the present invention, the actual data associated with a news story is transferred to a subscriber web site, along with a file containing instructions for rendering the news story data file. From the information conventionally stored in an RSS file, an application in accordance with the present invention derives other information that allows the application to locate a structured text file containing actual news story data and data for rendering that news story. Because the structured text file contains the actual data of the news story, the payload problem associated with the conventional systems that pass RSS reference links only to subscribers is obviated.

Because the news story data is transferred to the subscriber web site, the reader no longer has to be transferred to the vendor web site. Thus, the RSS payload problem is solved.

....

By contrast, the RSS file used in the present invention provides a link to a rendering file, and obtains the location of news story data from the contents of the RSS file. Moreover, the present invention maintains compatibility with conventional RSS files.

(Spec. ¶¶ [0012], [0013], [0067])

In contrast to the prior art's approach, the user/reader is no longer directed by a link in the subscriber website to a vendor website, but the actual news story data is actually transferred, according to the invention in this application, to the subscriber website where the user obtains direct access to it rather than obtaining the news story data from the vendor website. This is the substance of the limitation's "without the reader being transferred to a news vendor website" appearing in independent claims 1, 8, 15, and 42. This negative limitation feature is not recited in independent claims 22, 29, and 35.

The combinability of the teachings of Parks and Dave within 35 U.S.C. § 103 has not been challenged in the principal Brief on appeal. The Examiner's characterization of the RSS files discussed in Dave is consistent with what Appellants recognize as known in the art with respect to these types of files. The characterizations of what Dave teaches by the Examiner at page 5 of the Answer has been embellished upon by the Examiner by a careful reading of the Examiner's remarks at page 11 of the Answer within the Responsive Arguments portion of it (Ans. 11, 12). In our view, the Examiner has persuasively addressed the arguments presented in the principal Brief on appeal that urge patentability. Although we recognize that, while Parks does not teach these well known in the art files labeled RSS formatting files, the use of various buffering/data stores/data files is evident from even an cursory view of at least Figures 2 and 3 of Parks. Consistent with the Examiner's views, the modifying teachings of Dave clearly would have permitted or required the different labeled files argued not to be present in the combination as expressed by the Examiner at pages 11 and 12 of the Answer.

What appears to be significant is the teachings in Dave incorporates the use of RSS formatting files known in the art within the news story distributing arrangement in Dave characterized by the label ScriptingNews as the Examiner has argued. The Examiner labeled pages 1 and 2 of Dave appear to illustrate the ability of this reference to permit the user/reader to directly access news data without having to go to a news vendor website directly even though this reference appears to additionally permit the ability to do so. This additional teaching does not limit the applicability of Dave for what it does teach to one of ordinary skill in the art. To the extent argued

otherwise, a viewing file or rendering file, for example, are known in the art, as noted earlier, anyway because local browsers permit the rendering of Dave's data to a user/reader.

With respect to Appellants' initial argument at page 5 of the Reply Brief that Dave's RSS file does not meet all of the criteria of a RSS file, this is an art recognized file or format structure which Appellants admit is known in the art as well as Dave specifically making direct mention and incorporation of it. There is no claim directory listing requirement of the only generally argued claims on appeal, so the argument that Dave does not teach a directory listing of rendering or view file is misplaced. Moreover, a person of ordinary skill in the art would appreciate such directory type approaches to listing of separate files is taught in Parks in a general manner anyway. Note also at least the Directory Area 251 in figure 2D of Parks. The arguments are more specific than the actual claim language. This argument is also not directed to any specific claim limitations or any specific claim on appeal.

With respect to the argument beginning at page 6 of the Reply Brief that the parser function of Parks is not a rendering or view file, we do not agree with Appellants' assertion at the top of page 7 that a parser in Parks does not have anything to do with how a news data file is rendered. Appellants appear to answer their own question by stating "[t]o the contrary, the parser 224 merely ensures that the news story data file has an appropriate format so the news story data file may be properly read from and displayed by a viewing tool such as a browser." From an artisan's perspective, the absence of an appropriate format for a news story data file would not properly render it viewable by the use of a browser anyway.

The alleged absence of the negative limitation features we discussed earlier in this opinion beginning at a page 7 of the Reply Brief is misplaced. Rather than being set forth only in independent claims 1, 8, and 42 on appeal, independent claim 15 also has this feature which we noted earlier in this opinion as well. Appellants stated at page 8 of the Reply Brief that “[t]he news scripting of Dave provides a news page as shown on page 2 that keeps up to date stories from various news channels and includes links to the full news stories. Thus, the scripting news page merely offers stories to the user to be selected.” This material appears to us to operate as an admission that Dave does teach the presence of news page information in the scripting functionality of this reference and further includes the optional ability of the user to link to the full news story. In addition to the top of page 2 of Dave, note also the additional text and text feature related teachings at the Examiner labeled pages 3, 5, and 6. The ability to link to a full news story is not a limiting teaching of Dave since this ability has already been recognized by Appellants in addition to Dave’s ability to present to the reader/user news page stories that would appear to be locally presentable to the user/reader. The claims do not require that the full news story be presented to the reader/user.

CONCLUSIONS AND DECISION

Appellants have not shown that the Examiner erred in finding that the combination of the teachings of Parks and Dave teaches the subject matter of representative independent claim 1 on appeal to a person of ordinary skill in the art within 35 U.S.C. § 103. Therefore, the decision of the Examiner rejecting all claims on appeal under 35 U.S.C. § 103 is affirmed. All claims on appeal are unpatentable.

Appeal 2009-006571
Application 09/985,867

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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